

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of PRINCESS PIONCHISS MINNIE
LEE UPSHAW and PLAS BRUCE UPSHAW,
Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

V

PLAS JOHNSON,

Respondent-Appellant,

and

BIANCA KETERI UPSHAW,

Respondent.

UNPUBLISHED

August 21, 2003

No. 245746

Wayne Circuit Court

Family Division

LC No. 00-386441

Before: Markey, P.J., and Cavanagh and Saad, JJ.

PER CURIAM.

Respondent appeals by right the trial court's order terminating his parental rights to his children Princess Pionchiss Minnie Lee Upshaw (DOB 11-7-91) and Plas Bruce Upshaw (DOB 3-2-95) pursuant to MCL 712A.19b(3)(a)(ii), (c)(i), (g), and (j).¹

We review a trial court's decision to terminate parental rights for clear error. MCR 5.974(I); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999). If the trial court determines that the petitioner has proven by clear and convincing evidence the existence of one or more statutory grounds for termination, the court must terminate parental rights unless it finds from evidence on the whole record that termination is clearly not in the child's best interests. MCL

¹ The trial court's order also terminated the parental rights of respondent Bianca Keteri Upshaw, the children's mother. Upshaw has not appealed the order.

712A.19b(5); *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000). We review the trial court's decision regarding the child's best interests for clear error. *Id.*, 356-357.

We hold that the trial court did not clearly err in finding that petitioner established by clear and convincing evidence the existence of one or more statutory grounds for the termination of respondent's parental rights.² The children were removed from respondent's custody after authorities discovered that the family home was unfit and that respondent and Bianca Upshaw sold narcotics out of the home. At the time the children were removed respondent admitted that he sold narcotics and abused narcotics and alcohol. Respondent's parent-agency agreement required him to obtain substance abuse treatment, submit to random drug screens, maintain suitable housing, maintain a legal source of income, complete parenting classes, visit the children regularly, and maintain contact with petitioner. Respondent entered an inpatient substance abuse treatment program shortly before the permanent custody hearing commenced; however, he failed to comply with the parent-agency agreement in any other respect in spite of having more than two years to do so. The trial court's finding that respondent's inability to provide for his own needs rendered him unable to provide for the children's needs was not clearly erroneous under the circumstances. *Sours, supra*. Moreover, respondent's failure to comply with the parent-agency agreement constituted evidence that the children would be at risk of harm if returned to his custody. MCR 3.976(E)(1).

The trial court did not clearly err in finding that termination of respondent's parental rights was warranted on the grounds that the conditions that led to adjudication continued to exist and were not reasonably likely to be rectified within a reasonable time, MCL 712A.19b(3)(c)(i), that respondent failed to provide proper care or custody for the children and could not be expected to do so within a reasonable time, MCL 712A.19b(3)(g), and that the children would be at risk of harm if returned to respondent's custody, MCL 712A.19b(3)(j). The evidence did not show that termination of respondent's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *Trejo, supra*.

We affirm.

/s/ Jane E. Markey
/s/ Mark J. Cavanagh
/s/ Henry William Saad

² Petitioner concedes that clear and convincing evidence did not exist to support termination of respondent's parental rights pursuant to MCL 712A.19b(3)(a)(ii) (desertion).